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### REMARKS

#### **I. Introduction**

This is a full and timely response to the final Office Action of May 18, 2006. Claims 1-24 are pending in this application. Claims 25 and 26 were withdrawn in a prior response. Claims 1 and 13 are amended by the present response. The cited references of the Office Action are not admitted to be prior art to the Applicants' invention, and the Assignee reserves the right to file affidavits or declarations to antedate any reference if needed. A Request for Continued Examination, and Petition for One Month Extension of Time and fee are concurrently submitted herewith. The Office Action rejections are believed to be traversed for at least the following reasons.

#### **II. REJECTION OF CLAIMS 1-5, 8, 13-17 and 20 UNDER U.S.C. § 102**

The Office Action rejected claims 1-5, 8, 13-17 and 20 under 37 C.F.R. § 102(e) as being anticipated by U.S. Patent No. 6,624,096 to Thomas et al. (hereinafter "*Thomas*"). This rejection is respectfully traversed for at least the following reasons.

*Thomas* relates to a fabric for an outer shell of a firefighter's garment. *Thomas*, patent title. The fabric from which the garment is constructed includes spun yarns and multi-filament yarns that are intermittently positioned within the fabric body to form a checkered pattern. *Id.*, Col. 2, lines 10-13. *Thomas* does not include each and every element of Applicants' amended independent claims 1 and 13. In particular, *Thomas* does not include the element, "wherein the fabric can shield at least some of the relatively tough yarns from abrasion." The amended element is supported by the Applicants' specification in at least Paragraph [0025], which states:

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“Optionally, the fabric 200 can be configured so that the relatively tough yarns 208 do not protrude beyond the outer surface of the fabric such the fabric shields the relatively tough yarns from abrasion. This end result can be achieved in a variety of different ways. In one solution, the relatively tough yarns 208 are constructed so as to have effective diameters that are equal to or less than those of the body yarns 206 that form the body of the fabric 200. In another solution, the linear density and/or weight of the relatively tough yarns 208 is less than or equal to that of the body yarns 206, assuming each has the same specific gravity.”

*Thomas* does not disclose any of the relationships in size, linear density and/or weight of the spun yarns to the multi-filament yarns of the example fabrics described in the description, such as Examples 1 and 2, and Table 1. In addition, *Thomas* does not describe how, if it all, the fabric can shield any of its multi-filament yarns from abrasion, or whether any yarns protrude from the outer surface of the fabric. Since *Thomas* does not teach or disclose each and every element of amended independent claims 1 and 13, these claims should be patentable over *Thomas*, and the rejection should be traversed.

### III. REJECTION OF CLAIMS 1-4, 8-16 and 20-24 UNDER 35 U.S.C. 102

The Office Action rejected claims 1-4, 8-16 and 20-24 under 37 C.F.R. § 102(b) as being anticipated by U.S. Patent No. 3,729,920 to Sayers et al. (hereinafter “*Sayers*”). This rejection is respectfully traversed for at least the following reasons.

*Sayers* relates to novelty core yarn with a continuous glass filament core with a flame-resistant sheath. *Sayers*, Abstract. *Sayers* does not include each and every element of Applicants’ amended independent claims 1 and 13. In particular, *Sayers* does not

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include the element, "wherein the fabric can shield at least some of the relatively tough yarns from abrasion." The amended element is supported by the Applicants' specification in at least Paragraph [0025] as explained above.

*Sayers* does not disclose any of the relationships in size, linear density and/or weight of a glass filament yarn to any other yarn in either any flame resistant fabric or any protective garment. In addition, *Sayers* does not describe how, if at all, any of its glass filament yarns can be shielded from abrasion, or whether any yarns protrude from the outer surface of the fabric. Since *Sayers* does not teach or disclose each and every element of amended independent claims 1 and 13, these claims should be patentable over *Sayers*, and the rejection should be traversed.

#### IV. REJECTION OF CLAIMS 6, 7, 18 and 19 UNDER 35 U.S.C. 103

The Office Action rejected claims 6, 7, 18 and 19 under 37 C.F.R. § 103(a) as being unpatentable over U.S. Patent No. 6,624,096 to *Thomas*. This rejection is respectfully traversed for at least the following reasons. Claims 6, 7, 18, and 19 are ultimately dependent from either amended independent claim 1 or 13, for which arguments of patentability have been provided above. If amended independent claims 1 and 13 are patentable over *Thomas*, then dependent claims 6, 7, 18, and 19 should also be patentable over *Thomas*.

#### V. REJECTIONS OF CLAIMS 3 and 15 UNDER 35 U.S.C. 103

The Office Action rejected claims 3 and 15 under 37 C.F.R. § 103(a) as being unpatentable over *Sayer* and further in view of *Thomas*. This rejection is respectfully traversed for at least the following reasons. Claims 3 and 15 are ultimately dependent from either amended independent claim 1 or 13, for which arguments of patentability

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have been provided above. If amended independent claims 1 and 13 are patentable over *Thomas* and *Sayers*, then dependent claims 3 and 15 should also be patentable over *Thomas*.

## VI. DOUBLE PATENTING

The Office Action provisionally rejected claims 1-24 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12, 15-17, 21-32, 34-38, 40-42, and 45-48 of copending Application Serial No. 10/165,795. The '795 Application is no longer pending, and therefore, not a copending application for the double patenting rejection. This rejection is believed to be traversed.

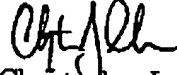
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**CONCLUSION**

Claims 1-24 are pending in the application. The Office Action rejections are believed to be traversed by the present response. Claims 1-24 should now be in condition for allowance. The Examiner is invited and encouraged to contact the undersigned attorney of record at (404) 815-6048 if such contact will facilitate a Notice of Allowance for claims 1-24. If any additional fees are due, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 11-0855.

Respectfully submitted,



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